



# भारत का राजपत्र The Gazette of India

असाधारण

EXTRAORDINARY

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PART II — Section 2

प्राधिकार से प्रकाशित

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इस भाग में भिन्न पृष्ठ संख्या दी जाती है जिससे कि यह अलग संकलन के रूप में रखा जा सके।  
Separate paging is given to this Part in order that it may be filed as a separate compilation.

## RAJYA SABHA

The following Bills were introduced in the Rajya Sabha on the 2nd February, 2018:—

### I

#### BILL NO. XXXVI OF 2017

*A Bill to provide for compulsory protection of witnesses and victims of crimes by the State who are intimidated, harassed, physically attacked mostly by various means or of their family member or their near and dear ones by the accused of crimes or by their accomplices or friends or relatives or co-accused or sympathizers committed either directly against the victims or against their family members or their near and dear ones and for matters connected therewith and incidental thereto.*

BE it enacted by Parliament in the Sixty-eighth Year of the Republic of India as follows:—

1. (1) This Act may be called the Compulsory Protection of Witnesses and Victims of Crimes Act, 2017.

(2) It extends to the whole of India.

(3) It shall come into force with immediate effect.

Short title,  
extent and  
commence-  
ment.

Definitions.

**2.** In this Act, unless the context otherwise requires,—

(a) "appropriate Government" means in the case of a State, the Government of that State and in all other cases the Central Government;

(b) "concealing of the identity of witness" means and includes any condition prohibiting publication or revealing, in any manner whatsoever, directly or indirectly of the name, address and other particulars relating to witness which may lead to the identification of the witness of a crime;

(c) "family member" includes parents, spouse, siblings, children and grand children including legally adopted ones of the witness or victim of a crime;

(d) "in-camera proceedings" means proceedings wherein the public and press are not allowed to witness the proceeding;

(e) "near and dear ones" include the relatives, in-laws, friends, etc.;

(f) "prescribed" means prescribed by rules made under this Act;

(g) "threat analysis report" means a detailed report prepared by designated police officers of the District or the unit investigating the case reflecting the seriousness and credibility of the threat perception to a witness or victim, as the case may be, or his family members or near or dear ones containing specific details about the nature and seriousness of threats faced by the witness or victim or his family members or near and dear ones to their life, reputation or property;

(h) "victim" means a person who is harmed physically or robbed or cheated as a result of a crime;

(i) "witness" means any person who possesses information or document about any crime regarded by any Court of law as being material to any criminal proceedings and who has made a statement or who has given or agreed to give evidence in relation to such proceedings;

(j) "witness or victim protection application" means an application moved by the witness or the victim, as the case may be, in the prescribed form before the competent court of law for seeking witness or victim protection order;

(k) "witness or victim protection order" means an order passed by the competent court of law detailing the steps to be taken by the local police for ensuring safety of life, reputation or property of the victim or witness, and his family members, near and dear ones and shall include interim order, if any, passed during the pendency or witness of victim protection application.

Compulsory protection of witness or the victim of crime.

**3. (1)** The appropriate Government shall provide compulsory protection to the witness or the victim, as the case may be, who is intimidated, harassed, physically attacked by arms or otherwise, or his kidnapping or of his near and dear ones by the accused of crime or by his accomplices or friends or relatives or co-accused or sympathizer, committed either directly against the witness or the victim or against their family members or near and dear ones whenever a request is made to the appropriate Government by either the witness or victim, as the case may be, or by their family member or near and dear one and the Central Government shall formulate the necessary measures for providing the protection under this act.

(2) Without prejudice to the generality of the foregoing provisions the measures shall include,—

(a) procedure of availing protection from the State;

(b) concealment of the identity of the witness;

(c) avoidance of face to face contact between the witness or the victim, as the case may be, and the accused;

(d) compulsory in-camera proceedings so as to protect the identity of the witness;

(e) monitoring of the calls and mails of the witness or the victim, as the case may be, and providing him with an unlisted number;

(f) installation of security devices like Closed circuit television alarms, etc. at the place of residence or office of the witness or victim, as the case may be.

(g) undertaking any other measure issued under the witness or victim protection order to ensure safety of the witness or victim, as the case may be.

**4.** (1) During the course of investigation of an offence, the witness of the offence or victim thereof may apply for witness or victim protection order at the court in which the proceedings are being heard in such manner as may be prescribed;

Process of availing protection.

(2) The Court shall, upon receipt of an application under Sub-section (1) call for the threat analysis report and shall, upon receipt of the report, evaluate the threat to the life, reputation or property of the witness or victim, as the case may be, or his family members or near or dear ones or any other person, which it deemed fit, to ascertain whether there is necessity to pass a witness or victim protection order or not.

(3) The threat analysis report shall be submitted within seventy-two hours of the receipt of the application.

(4) During the course of hearing of the application, the identity of the witness shall not be revealed to any other person.

(5) The National or State Legal Service Authority constituted under the Legal Services Authorities Act, 1987 shall provide legal aid to the applicant free of cost.

**5.** Notwithstanding anything contained in any other law for the time being in force the National Legal Services Authority shall coordinate and frame policies for effective implementation of the provisions of this Act and rules made thereunder.

National legal Services Authority to coordinate and frame policies for implementation of the act.

**6.** The Central Government shall, after due appropriation made by Parliament by law in this behalf, provide requisite funds for carrying out the purposes of this Act.

Central Government to provide funds.

**7.** (1) If any difficulty arises in giving effect to the provisions of this Act, the Central Government may, by order published in the Official Gazette, make such provisions, not inconsistent with the provisions of this Act, as appears to it to be necessary or expedient for removing the difficulty:

Power to remove difficulty.

Provided that no such order shall be made after expiry of two years from the date of commencement of this Act.

(2) Every order made under this section shall, as soon as may be after it is made, be laid before each House of Parliament.

**8.** The provisions of this Act shall in addition to and not in derogation of any other law, for the time being in force.

Act to supplement other laws.

**9.** The Central Government may, by notification in the Official Gazette, make rules for carrying out the purposes of this Act.

Power to make rules.

## STATEMENT OF OBJECTS AND REASONS

These days people who are witness to crimes being committed by the criminals do not come forward to depose before the court of law because they fear for their lives, property or reputation and similar fear is felt for their family members and near and dear ones. It is also true that the criminals in particular the hardened ones and organized criminals first of all target the witnesses and victims, their family members, near and dear ones with intimidation, harassment, attacks with arms, acid etc., so that they do not come forward to give evidence in the court due to fear factor. The victims of crimes are threatened to withdraw the case or face the consequences. In most of rape cases and murders it is happening. Many a times the victim or witnesses have been attacked and even murdered. Acid throwing on rape victims is very common. As such in the absence of reliable evidence the criminals go scot free which becomes a morale booster for them to become hardened criminals. Unfortunately of late organised crime has grown and is becoming stronger and more diverse.

It is also true that in the course of investigation and prosecution of crime, in particular the most serious and complex forms of organized crime and heinous crimes like murder, rape, act of terrorism or violence it is essential that the witnesses, the cornerstones for successful investigation and prosecution must have trust in criminal justice system. They need to have confidence to come forward to assist law enforcement and prosecutorial authorities. Similar is the case of victims of crimes. In fact the witnesses as well as victims of crimes have to be assured that they will receive State support and protection from intimidation and the harm that criminal or criminal groups may seek to inflict upon them or upon the family members or near or dear ones in an attempt to discourage or punish them. The apex court of the nation has also emphasized on the need of legislative measures for the protection of victims and witnesses which has to be implemented in letter and spirit.

Hence this Bill.

RAJKUMAR DHOOT

#### FINANCIAL MEMORANDUM

Sub-Clause (2) (f) of clause 3 of the Bill provides for installation of security devices like Closed Circuit Television (CCTV) alarms etc. at the residence or office of the witness or the victim of a crime. Sub-clause (5) of clause (4) of the Bill provides that the National or State Legal Services Authority shall provide legal aid to the applicant free of cost. Clause 6 makes it mandatory for the Central Government to provide requisite funds for carrying out the purposes of the Bill. The Bill, if enacted, will involve expenditure from the Consolidated Fund of India. It is estimated that a sum of rupees ten thousand crore may involve as recurring expenditure per annum. No non-recurring expenditure is likely to be involved.

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#### MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 9 of the Bill, gives power to the Central Government to make rules for carrying out the purposes of the Bill. The rules will relate to matters of details only. The delegation of legislative power is of normal character.

## II

### BILL NO. XXVIII OF 2017

*A Bill to provide for the conservation and development of heritage cities and sites by way of retaining their historical identification and promoting international and domestic tourism and publishing their historical importance through booklets, pamphlets and such other material and for declaring heritage cities as smart cities for overall development and for matters connected therewith and incidental thereto.*

BE it enacted by Parliament in the Sixty-eighth Year of the Republic of India as follows:—

Short title,  
extent and  
commencement.

**1.** (1) This Act may be called the Heritage Cities and Sites (Conservation and Development) Act, 2017.

(2) It extends to the whole of India.

(3) It shall come into force with immediate effect.

**2.** In this Act, unless the context otherwise requires,—

Definitions.

(a) "appropriate Government" means in the case of a State the Government of that State and in other cases the Central Government;

(b) "Fund" means the National Heritage Cities and Sites Development Fund established under section 4;

(c) "heritage city or heritage site" means a city or site, as the case may be, having historical importance which has been declared as such either by United Nations Organisation or any other international organization or as the Central Government may, by notification in the Official Gazette, declare to be heritage;

(d) "prescribed" means prescribed by rules made under this Act.

**3.** (1) The Central Government shall, after inviting suggestions from the Governments of the States and Administrations of the Union Territories, by notification in the Official Gazette declare new heritage cities and sites in the country.

Central Government to declare new heritage cities and sites.

(2) Every city declared as heritage city under Sub-section (1) shall also be declared as a smart city under the policy of the Central Government.

**4.** (1) The Central Government shall, within a period of six months from the date of commencement of this Act, constitute a Fund to be known as the National Heritage Cities and sites Development Fund with initial corpus of rupees fifty thousand crore to be provided by the Central Government.

Constitution of National Heritage Cities and Sites Development Fund.

(2) The Fund shall be utilised in such manner as may be prescribed for,—

(a) development of heritage cities and sites;

(b) creating infrastructure such as hospitality establishments and services, public utilities, water facility, and such other facilities as the appropriate Government may deem necessary for the promotion and development of tourism including publicity through booklets, pamphlets, print and electronic media and through the Indian Embassies and High Commissions abroad to attract foreign and domestic tourists in large numbers to such heritage cities and sites; and

(c) providing necessary transport facilities including air services, rail connectivity, metro rail projects, public transport system, and such other means to reach and see the heritage cities and sites.

**5.** Notwithstanding anything contained in any other law or policy of the Central Government for the time being in force every heritage city covered under this Act shall be developed as Smart City by the Central Government.

Heritage cities to be developed as smart cities.

**6.** The Central Government shall, after due appropriation made by Parliament by law in this behalf, provide requisite funds from time to time, for carrying out the purposes of this Act.

Central Government to provide requisite funds.

**7.** The provisions of this Act shall be in addition to and not in derogation of any other law for the time being in force dealing with the subject matter of this Act.

Act to supplement other laws.

**8.** The Central Government may, by notification in the Official Gazette, make rules for carrying out the purposes of this Act.

Power to make rules.

## STATEMENT OF OBJECTS AND REASONS

Our Nation, one of the oldest civilizations, is an ancient country with rich cultural traditions in which many cities and sites were tastefully created and developed by the then rulers which today have great heritage value. One such heritage city is Aurangabad in the State of Maharashtra which is the gateway to world heritage site of Ajanta and Ellora caves. This ancient city named after Moghul emperor Aurangzeb has witnessed the proud history of Moghul dynasty. Apart from Ajanta and Ellora caves this city is famous for duplicate Taj Mahal known as *Biwi ka Makbara*, Grihaneshwar temple, Daulatabad fort, Salim Ali Lake and bird sanctuary and 52 gates where every gate has its own history and named after someone important in history. Being a Moghul era city there are many Dargahs and Mosques in this ancient city.

There are many other historical cities and sites of heritage value. Many of them have been declared as historical sites and remains under an Act of Parliament. Some sites have also been declared as world heritage sites by UNESCO. But, unfortunately, most of them are in dilapidated condition, completely neglected and are in need of refurbishment.

In fact these heritage cities and sites having historical value can be converted into hubs of tourism and in turn will create employment opportunities and generate revenue for the exchequer apart from preserving our history.

Hence this Bill.

RAJKUMAR DHOOT



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#### FINANCIAL MEMORANDUM

Clause 4 of the Bill provides for the constitution of National Heritage Cities and Sites Development Fund with an initial corpus of rupees fifty thousand crore to be provided by the Central Government. Clause 6 makes it obligatory for the Central Government to provide requisite funds for carrying out the purposes of the Bill. The Bill, if enacted will involve expenditure from the Consolidated Fund of India. Apart from initial corpus of rupees fifty thousand crore it is estimated that a sum of rupees sixty thousand crore may involve as recurring expenditure per annum. Non recurring expenditure to the tune of rupees ten thousand crore may also involve.

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#### MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 8 empowers the Central Government to make rules for carrying out the purposes of the Bill. The rules will relate to matters of details only. The delegation of Legislative power is of normal character.

### III

#### BILL NO. XXVII OF 2017

*A Bill to provide for the formulation of a national policy to set up engineered landfill sites at conspicuous places away from human settlements, for their scientific management and for preparing a model solid waste management policy to prevent throwing or depositing non-biodegradable garbage or waste at public places such as roads, parks, public drains or places open to public view so as to protect the environment and ultimately mother earth from being polluted by such garbage or waste responsible for the climate change and for matters connected therewith and incidental thereto.*

BE it enacted by Parliament in the Sixty-eighth Year of the Republic of India as follows:—

Short title  
extent and  
commence-  
ment.

1. (i) This Act may be called the Environment Protection (Management of Landfill Sites and Control of Non-Biodegradable Garbage) Act, 2017.

(ii) It extends to the whole of India.

(iii) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

2. In this Act, unless the context otherwise requires,—

Definitions.

(a) "appropriate Government" means in the case of a State, the Government of that State and in other cases, the Central Government;

(b) "Biodegradable Garbage" means the garbage or waste material capable of being destroyed naturally or by the action of living beings or microorganisms;

(c) "landfill site" means a site or place earmarked for depositing garbage of a city by the local self-Government;

(d) "local self-Government" includes a Municipality, Cantonment Board or any such authority by whatever name called;

(e) "municipal area" means territorial area within the jurisdiction of a local Self-Government;

(f) "non-Biodegradable garbage" means the garbage or waste material which is not biodegradable and includes polythene, Nylon and other plastic goods such as Polyvinyl Chloride, Polypropylene and Polystyrene etc.;

(g) "place open to public view" include any private place or building, monument, fence or balcony visible to a person being in or passing along any public place;

(h) "prescribed" means prescribed by rules made under this Act;

(i) "public Place" means any place which is open to use and enjoyment of the general public whether it is actually used or enjoyed by the public or not and includes a road, street, market house gully or way, whether a throughfare or not, and the landing place to which public are granted access or have a right to resort or over which they have a right to pass.

3. (1) The Central Government shall, within six months of the commencement of this Act, prepare and publish in the Official Gazette a National Policy for setting up and scientific management of landfill sites and solid waste management throughout the country.

National Policy for landfill sites and solid waste management.

(2) Without prejudice to the generality of the provisions contained in Sub-section (1) the National Policy shall include,—

(a) setting up of engineered landfill sites instead of conventional ones;

(b) positioning of vent pipes in landfill sites to burn methane gas;

(c) setting up plants to generate power from the garbage;

(d) promote technology to build roads from the garbage;

(e) setting up of waste recycling plants;

(f) recognising waste pickers or informal waste collectors;

(g) providing training on solid waste management to waste pickers or collectors;

(h) setting up of material recovery facility, secondary storage facility to sort recyclable waste;

(i) promote segregation of waste in dry and wet in households and establishments;

(j) promote participation of Residents Welfare Associations (RWAs) in educating people in waste management in their areas; and

(k) such other provisions as the Central Government may deem fit and necessary.

4. (1) Notwithstanding anything contained in any other law for the time being in force, the disposal of garbage by any person, by himself or through another, knowingly or otherwise in any drain, ventilation shaft, pipe and fittings connected with the private or public drainage works, at public place such as streets, roads, market place, open vacant plots and such other places is hereby prohibited.

Prohibition to through garbage in drains and sewerage.

(2) No person shall, knowingly or otherwise, place or permit to be placed, except in accordance with such procedure and after complying with such safeguards as may be prescribed any biodegradable and non-biodegradable garbage in any public place or in a place open to public view unless,—

(a) the garbage is placed in a garbage receptacle; or

(b) the garbage is deposited in a location designated by a local Self-Government having jurisdiction on an area for the disposal of garbage.

(3) Whoever contravenes the forgoing provisions shall be guilty of an offence under this Act.

Placement of receptacles etc. by local self-Government.

**5.** It shall be the duty of the local Self-Government to,—

(a) provide at conspicuous and convenient places public receptacles, depot or *dhalao* or places for temporary deposit or collection of non bio-degradable garbage;

(b) provide separate dustbins for temporary deposit of non-biodegradable garbage other than those kept and maintained for deposit or biodegradable garbage;

(c) provide for the removal of garbage from receptacles, depot and accumulation at all places provide by it;

(d) promote segregation of garbage in dry and wet categories; and

(e) arrange for recycling of non-biodegradable garbage collected under this Act.

Penalty.

**6. (1)** Whoever commits any act in contravention of any of the provisions of this Act, shall be punished with fine which shall be less than twenty thousand rupees, but may extend of fifty thousand rupees.

(2) Whoever having been convicted of an offence under this Act is again convicted of any offence under this Act shall be punished with simple imprisonment which may extend to one year;

(3) Whoever in any manner aids or abets the commission of an offence under this Act shall be punished with fine which shall not be less than fifty thousand rupees, but may extend to one lakh rupees.

(4) Notwithstanding anything contained in the Code of Criminal procedure, 1973 an offence punishable under this Act shall be cognizable and bailable.

Welfare measures for workers.

**7.** It shall be the duty of the appropriate Government to extend welfare measures, appropriate medical facilities and special allowances to the workers who are engaged to execute works under this Act.

Offences to be tried summarily.

**8.** All offences under this Act shall be tried in a summary way by a Judicial Magistrate of the first class and the provisions of sections 262 to 265 (both inclusive) of the Code of Criminal Procedure 1973 shall, as far as may be, apply to such trials.

2 of 1974.

Central Government to provide funds.

**9.** The Central Government shall, after due appropriation made by Parliament by law in this behalf, provide requisite funds from time to time for carrying out the purposes of this Act.

Act to supplement other laws.

**10.** The provisions of this Act shall be in addition to and not in derogation of any other law for the time being in force dealing with the subject matter of this Act.

Power to make rules.

**11.** The Central Government may, by notification in the Official Gazette, make rules for carrying out the purposes of this Act.

## STATEMENT OF OBJECTS AND REASONS

Recently, during the rainy season a landfill site in the National Capital collapsed after a blast caused by Methane gas collected within the site the slide swept away some people in the nearby canal and killed them. In the landfill sites Methane gas generated in a large scale be it in the National Capital, commercial capital of the country, Mumbai or any other metropolitan or urban area which causes apart from difficulty in breathing and irritation in eyes, some dreaded diseases like TB, Cancer etc. In metropolitan cities like Delhi, Mumbai etc. availability of land for setting up new landfill sites is next to impossible and as a result existing landfill sites have become mountains of garbage emanating stink and gases and polluting the environment on a very large scale.

In fact removal of garbage has become a major problem in the urban areas of the country. Heaps of garbage can be seen almost everywhere which is causing huge environment pollution. Disposal of solid waste is the duty of the local self-Government agencies. Major portion of solid waste is of biodegradable nature which means it can be destroyed by the action of living being and micro-organisms. Such garbage can be converted into compost or used as a source of energy of manure. Now under a new technology the waste can also be used in building roads. But non-biodegradable waste is the bane of modern civilization and invent in of plastic has caused the biggest harm to environment. Such substance choke gutters, drains and marine outfall creating difficulties for sewage engineering.

Recently, Indian Institute of Technology (IIT), Delhi made a presentation on waste disposal which the local bodies can adopt. In short, we require a National Policy to deal with this sensitive issue.

Hence this Bill.

RAJKUMAR DHOOT

#### FINANCIAL MEMORANDUM

Clause 7 of the Bill provides for welfare measures, medical furtoties and special allowances to the workers who are engaged to execute the work under this Act. Clause 9 makes it mandatory that the Central Government shall provide funds from time to time for carrying out the purposes of this Bill. At this stage it is not possible to quantify the funds which may be required for the implementation of the provisions but it is estimated that a sum of rupees one lakh crore may involve from the Consolidated Fund of India as recurring expenditure per annum in case the Bill is enacted by Parliament.

A sum of rupees one lakh crore may also be involved as non-recurring expenditure for creating assests in the country.

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#### MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 11 of the Bill gives power to the Central Government to make rules for carrying out the purposes of this Bill. The rules will relate to matters of details only. The delegation of legislative power is of normal character.

**IV****BILL NO II OF 2018**

*A Bill further to amend the Constitution of India.*

BE it enacted by Parliament in the Sixty-ninth Year of the Republic of India as follows:—

**1.** (1) This Act may be called the Constitution (Amendment) Act, 2018.

Short title and  
commencement.

(2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

**2.** After article 330 of the Constitution, the following article shall be inserted, namely:—

Insertion of  
new article  
330A.

“330A. (1) Seats shall be reserved in the House of the People for the Other Backward Classes.

Reservation of  
seats for Other  
Backward

(2) The number of seats reserved in any State or Union territory for the Other Backward Classes under clause (1) shall bear, as nearly as may be, the same proportion

Classes in the  
House of the  
people.

to the total number of seats allotted to that State or Union territory in the House of the People as the population of the Other backward Classes in the State or Union territory or part of the State or Union territory, as the case may be, in respect of which seats are so reserved, bears to the total population of the State or Union territory.

*Explanation.*— In this article, the expression “population” means the population as ascertained at the last preceding census of which the relevant figures have been published.”

Insertion of  
new article  
332A.

3. After article 332 of the Constitution, the following article shall be inserted, namely:—

Reservation  
of seats for  
Other  
Backward  
Classes in the  
Legislative  
Assemblies of  
the State.

“332A. (1) Seats shall be reserved for the Other Backward Classes in the Legislative Assembly of every State.

(2) The number of seats reserved in any State for the Other Backward Classes under clause (1) shall bear, as nearly as may be, the same proportion to the total number of seats in the Legislative Assembly as the population of the Other Backward Classes in the State in respect of which seats are so reserved, bears to the total population of the State.

*Explanation.*— In this article, the expression “population” means the population as ascertained at the last preceding census of which the relevant figures have been published.”

Amendment  
of article 334.

4. In article 334 of the Constitution, in clause (a), for the words “the Scheduled Castes and the Scheduled Tribes”, the words “the Scheduled Castes, the Scheduled Tribes and the Other Backward Classes” shall be substituted.

Insertion of new  
article 342A.

5. After article 342 of the Constitution, the following article shall be inserted, namely:—

Other  
Backward  
Classes.

“342A. (1) The President may with respect to any State or Union Territory, and where it is a State, after consultation with the Governor therefor, by public notification, specify the socially and educationally backward classes which shall for the purposes of this Constitution be deemed to be the Other Backward Classes in relation to that State or Union Territory, as the case may be.

(2) Parliament may by law include in or exclude from the Central List of Other Backward Classes specified in a notification issued under clause (1) any socially and educationally backward class, but save as aforesaid a notification issued under the said clause shall not be varied by any subsequent notification.”

Amendment  
not affect the  
representation  
in the House  
of the People  
or Legislative  
Assembly of a  
State until the  
dissolution of  
the House or  
Assembly.

6. The amendments made to the Constitution, by this Act, shall not affect any representation in the House of the People or in the Legislative Assembly of a State until the dissolution of the House or Assembly, as the case may be, in existence at the commencement of this Act.



## STATEMENT OF OBJECTS AND REASONS

In terms of the principles of affirmative action enabled under the Constitution to ameliorate the conditions of Other Backward Classes (OBC), and Scheduled Castes (SCs) and Scheduled Tribes (STs), periodic measures have been taken by the successive Governments to improve their lot. However, in the law-making bodies of the State, such OBCs do not secure representation proportionate to their population.

2. The representation of the citizens from socially and educationally backward classes in the elected bodies at the Centre and State remains significantly incongruent with the proportion of such individuals in the total population. Only 18 per cent and 20 per cent of the total members elected were from the Other Backward Classes in the 2009 and 2014 Lok Sabha elections respectively, while the population of the Other Backward Classes is estimated to be around 40-55 per cent of the total population.

3. There has also been a lack of proportional measures to assess and improve the social, educational and financial conditions of the Other Backward Classes in the country. While the Socio Economic and Caste Census 2011 contained data regarding the development metrics of people belonging to the Scheduled Castes and Scheduled Tribes, such data has not been published about the people belonging to the Other Backward Classes despite their relatively large population. Subsequently serious doubt is cast on the adequacy of the current measures taken by the Government to improve the conditions of socially and educationally backward classes.

4. The first step in advancing the rights of the people belonging to the Other Backwards Classes is ensuring a proportionate representation to the people in the representative bodies, *i.e.* the House of the People and the Legislative Assemblies of the State.

Hence, this Bill.

V. VIJAYASAI REDDY

**V****BILL NO IV OF 2018***A Bill further to amend the Constitution of India.*

BE it enacted by Parliament in the Sixty-ninth Year of the Republic of India as follows:—

Short title and  
commencement.

**1.** (1) This Act may be called the Constitution (Amendment) Act, 2018.

(2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

Amendment  
of article 15.

**2.** In article 15 of the Constitution, for clause (4) and clause (5) the following clauses shall be substituted, namely:—

“(4) Nothing in this article or in clause (2) of article 29 shall prevent the State from making any special provision for the advancement of any socially and educationally backward classes of citizens, or for the Scheduled Castes and the Scheduled Tribes:

Provided that the provision for the advancement of socially and educationally backward classes of citizens shall be proportionate to their population.

(5) Nothing in the article or in sub-clause (g) of clause (1) of article 19 shall prevent the State from making any special provision, by law, for the advancement of any socially and educationally backward classes of citizens or for the Scheduled Castes or the Scheduled Tribes in so far as such special provisions relate to their admission to educational institutions including private educational institutions, whether aided or unaided by the State, other than the minority educational institutions referred to in clause (1) of article 30:

Provided that the provision for the advancement of socially and educationally backward classes of citizens shall be proportionate to their population.

*Explanation.*— In this article, the expression “population” means the population as ascertained at the last preceding census of which the relevant figures have been published.

3. In article 16 of the Constitution, for clause (4), the following clause shall be substituted, namely:—

Amendment  
of article 16.

“(4) Nothing in this article shall prevent the State from making any provision for the reservation of appointments or posts in favour of any backward class of citizens, which in the opinion of the State, are not represented in the services under the State, proportionate to their population.

*Explanation.*—The expression “population” means the population as ascertained at the last preceding census of which the relevant figures have been published.”

## STATEMENT OF OBJECTS AND REASONS

The enabling content of articles 15(4) and 16(4) as they stand today, empower the State to make provisions for reservation in education and in public employment in relation to the population of the Socially and Educationally Backward Classes (SEBCs) as identified by the respective Backward Classes Commissions. The percentage of reservation in central institutions, both in education and public services in 27 per cent, so as to keep the overall percentage of reservations under the judicially mandated limit of 50 per cent, while the population of SEBCs so far identified and recognized as such, is over 55 per cent.

2. The issue of provision of reservations and affirmative action has been an on-going debate in the country more particularly, about the adequacy of the measures taken by the elected Government to ameliorate the conditions of socially and educationally backward classes. Judicial dicta have limited the overall percentage of reservations to only 50 per cent of the available educational opportunities in respect of such SEBCs including Scheduled Castes (SCs) and Scheduled Tribes (STs), having regard to the enabling provision requiring the said measures on the principle of adequacy of representation enshrined under article 16(4) of the Constitution. There have been many agitations about the sheer inadequacy of such measures, to meet the aspirations of such classes, more particularly in regard to educational opportunities and services.

3. A few States such as Tamil Nadu, have already enhanced the reservations in excess of 50 per cent and the challenge to such measures are awaiting judicial adjudication. The present state of affairs shows that existing opportunities in the education and services sector are not meeting the requirements of the population of the already identified SEBCs. The constitutional protection granted to SCs and STs of affording reservations to them in all sectors, such as education, services, political representation, proportional to their population, is required to be extended to SEBCs also, having regard to the march of time, and increase in the population of the SEBCs.

4. Hence, this present Bill.

V. VIJAYASAI REDDY

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DESH DEEPAK VERMA,  
*Secretary-General.*